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7 Attorneys for Defendant ALEX M. AZAR II

9                  UNITED STATES DISTRICT COURT  
10                  NORTHERN DISTRICT OF CALIFORNIA  
11                  OAKLAND DIVISION

12 STEVEN BRUCE,                  ) No. 4:18-cv-05022-HSG  
13                  Plaintiff,                  )  
14                  v.                  ) **JOINT STIPULATION AND ORDER TO**  
15 ALEX M. AZAR II, et al.,                  ) **ENLARGE THE TIME TO TRANSMIT AND**  
16                  Defendants.                  ) **FILE THE CERTIFIED ADMINISTRATIVE**  
17                                   ) **RECORD**  
18 \_\_\_\_\_ )  
19 Plaintiff Steven Bruce and Federal Defendant Alex M. Azar II, by and through counsel, hereby  
20 stipulate as follows:

21 WHEREAS the parties had agreed that Federal Defendant would file and transmit the  
22 Administrative Record by December 19, 2018 (Dkt. 20);

23 WHEREAS Federal Defendant, at the time the joint stipulation was entered into, had already  
24 placed a request with agency staff to prepare the Administrative Record, and where there was no  
25 indication at that time of future budget issues, which would impede timely transmission and filing;

26 WHEREAS in the final stages of preparing the Administrative Record, Federal Defendant  
27 encountered unforeseen budget issues;

28 STIPULATION AND PROPOSED ORDER ON PRODUCTION SCHEDULE FOR ADMINISTRATIVE RECORD

1        WHEREAS the budget issues have resulted in insufficient funding for a certified transcription of  
2 one of the three hearing transcripts;

3        WHEREAS Federal Defendant is unable to certify a partial record and thus transmission and  
4 filing of a certified Administrative Record on the stipulated date of December 19, 2018 is no longer  
5 possible;

6        WHEREAS Federal Defendant still seeks to abide by the Court-ordered deadline of December  
7 19, 2018 to provide the Administrative Record to Plaintiff by December 19, 2018 and by the Court-  
8 ordered deadline to meet and confer about the content of the record and file a statement by January 4,  
9 2019 (Dkt. 50);

10      NOW THEREFORE the parties hereby STIPULATE that Federal Defendant will produce to  
11 Plaintiff an uncertified Administrative Record on December 19, 2018, which will contain all documents  
12 relied upon by Federal Defendant in making the decisions in Plaintiff's cases, transcripts from two of  
13 Plaintiff's hearings before Federal Defendant, and an audio file from one of the hearings before Federal  
14 Defendant, so that the parties can meet their court-ordered meet and confer requirements set forth in the  
15 Court's December 4, 2018 Minute Entry (Dkt. 50);

16      The parties further STIPULATE, pursuant to Local Rule 6-1(a), that by January 30, 2019 or  
17 sooner, if at all possible, Federal Defendant will transmit and file the certified Administrative Record or  
18 provide Plaintiff with a status update regarding the certification of the Administrative Record;

19      The parties further STIPULATE that although Federal Defendant does not believe there will be  
20 any discrepancies between the uncertified record being furnished to Plaintiff on December 19, 2018 and  
21 the certified record being transmitted and filed at a later date, to the extent there are unforeseen  
22 differences, Federal Defendant will highlight such differences upon transmission of the certified record;

23      Nothing in this Stipulation shall preclude Plaintiff from seeking relief in the event the uncertified  
24 or certified record does not contain all documents relied upon and/or mentioned by the Medicare  
25 Appeals Council or the Administrative Law Judges in issuing their decisions;

26      The parties further STIPULATE that the certified Administrative Record will be lodged under  
27 seal.

28 STIPULATION AND PROPOSED ORDER ON PRODUCTION SCHEDULE FOR ADMINISTRATIVE RECORD

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4:18-cv-05022-HSG

1  
2 DATED: December 20, 2018

Respectfully submitted,

3  
4 ALEX G. TSE  
United States Attorney

5 /s/ Kimberly A. Robinson

6 KIMBERLY A. ROBINSON  
Assistant United States Attorney

7  
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9  
10 Attorneys for Defendant Alex M. Azar II

DATED: December 20, 2018

11 PEOPLE WITH DISABILITIES FOUNDATION

12 /s/ Zoya Yarnykh  
ZOYA YARNYKH

13 Attorney for Plaintiff Steven Bruce

14  
15 \*In compliance with Civil Local Rule 5-1(i)(3), the filer of this document attests under penalty of perjury  
that counsel for Plaintiff has concurred in the filing of this document.

16 ORDER

17 IT IS HEREBY ORDERED that by December 19, 2018, Federal Defendant will produce to  
18 Plaintiff an uncertified Administrative Record and by January 30, 2019, Federal Defendant will transmit  
19 and file the certified Administrative Record or provide Plaintiff with a status update regarding the  
20 certification of the Administrative Record. Nothing in this Stipulation shall preclude Plaintiff from  
21 seeking relief relating to the contents of the uncertified or certified Administrative Record.

22  
23 Dated: December 20, 2018

24  
25   
26 Hon. Haywood S. Gilliam, Jr.  
U.S. District Court Judge

27  
28 STIPULATION AND PROPOSED ORDER ON PRODUCTION SCHEDULE FOR ADMINISTRATIVE RECORD